

Message

From: Beck, Whitney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=95A55FA866614CF99239EF6C3509B71E-BECK, WHITN]
Sent: 12/1/2020 6:41:14 PM
To: Hurlid, Kathy [Hurlid.Kathy@epa.gov]
Subject: RE: Early Draft of Florida CWA 404 Good Cause Final Rule

I know! We figured out this OP process last week and now we're just trying to get OW IO moving. Shari just called me because her management asked the same question Sandra asked- why is this a rush. I explained on the phone and told her I'd send the Simma-approved language to her when it's available & she'll forward to her management.

She also mentioned that a "Tier 4 rulemaking" exists where OP doesn't even really get involved, so she's asking her management how that works and what the criteria are!!

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Tuesday, December 1, 2020 1:39 PM
To: Beck, Whitney <beck.whitney@epa.gov>
Subject: FW: Early Draft of Florida CWA 404 Good Cause Final Rule

And the challenge is OW is holding it all up!!!!

From: Nurse, Leanne <Nurse.Leanne@epa.gov>
Sent: Tuesday, December 1, 2020 1:35 PM
To: Beck, Whitney <beck.whitney@epa.gov>; Grossarth, Shari <Grossarth.Shari@epa.gov>
Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: Re: Early Draft of Florida CWA 404 Good Cause Final Rule

Whitney,

This is some preliminary feedback (apologies for duplicating information you may already have). You need to:

- Get this action tiered with OP AA approval
- Submit a Non-significance determination request in ADP tracker under the "OMB determination" milestone and also send the NSD request as a Word document attachment to the desk officer (me), cc Darryl Adams (tiering coordinator).
- Submit a EO 13771 3C waiver for not having been published in the Reg Agenda [I'll discuss with Mary tomorrow]

From: Beck, Whitney <beck.whitney@epa.gov>
Sent: Tuesday, December 1, 2020 12:41 PM
To: Grossarth, Shari <Grossarth.Shari@epa.gov>; Nurse, Leanne <Nurse.Leanne@epa.gov>
Cc: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Subject: Early Draft of Florida CWA 404 Good Cause Final Rule

Hi Shari and Leanne,

As I mentioned last week, OW is planning to issue a final rule if EPA approves Florida's request to assume a CWA section 404 program. The final rule just got entered into the ADP tracker last week and doesn't even have a SAN- but it's called "Codifying EPA's Adjudicatory Decision on Florida's Clean Water Act Section 404 Program Request."

EPA has to make a decision by December 17, and R4 will submit a (non-rulemaking) FRN communicating that decision. OW would like to issue the final rule ASAP after that decision. The final rule would be issued without notice and comment for good cause (we've been in contact with Mary on good cause rules), and we're routing a non-significance determination to OP soon (we've been in contact with Darryl & Leanne).

Because of the quick timeframe, we wanted to provide a VERY EARLY DRAFT FRN sooner than later to get your feedback. You'll see some comments for the OW/R4 FL team (still getting their feedback!) but also some sections where I particularly wanted to get early OP feedback. For instance, we know the E.O. & Statutory requirements section is different for good cause final rules. The good cause guidance that Mary provided has some limited information about how to structure that section. We did find an example good cause rule from 2015 that I used as a template (attached), and I'm curious to know if anything looks like it's missing?

I also wanted to make sure we're on the right track with the reg text formatting (I know we can perfect later since OW will still have more edits...).

Please let me know what questions I can answer, and if you need additional information.

Best,
Whitney

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